

REMARKS

The examiner's courtesy in granting a telephonic interview on November 13, 2003 to Applicant's undersigned attorney and the inventor, George Dougherty, is appreciated. During that interview, the differences between the claimed invention and U.S. Patent 5,919,634 (Lebouitz et al.) were discussed.

As a result of that interview, the examiner asked that Mr. Dougherty submit a Declaration outlining the differences between the claimed invention and Lebouitz et al. Mr. Dougherty's declaration is attached to this amendment.

As can be seen from Mr. Dougherty's declaration, there is absolutely no disclosure in Lebouitz et al. of any sort of method of controlling or measuring the residual stress of its polysilicon membrane. Also, there is no disclosure in Lebouitz et al. of controlling the residual stress of the polysilicon membrane to ensure that it has a residual stress within a range of between about -50 to 50 mega-Pascals. Additionally, there is no disclosure in Lebouitz et al. of controlling the residual stress of its polysilicon membrane such that the membrane has a residual stress within a range of between about -100 to 100 mega-Pascals and a grain structure including grains having an approximately hemispherical shape wherein pores are defined by gaps between adjacent grains.

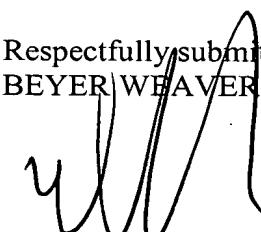
As such, Lebouitz et al. cannot possibly anticipate nor would it have rendered obvious Applicant's claimed invention.

Also, please note that claim 16 has been amended to more precisely define the claimed invention and that claim 28 has been added.

In view of the foregoing, it is submitted that all the claims are now in condition for allowance. Accordingly, allowance of the claims at the earliest possible date is requested.

If prosecution of this application can be assisted by telephone, the Examiner is requested to call Applicant's undersigned attorney at (510) 495-3206. Please apply any other charges or credits to Deposit Account No. 500388.

Respectfully submitted,
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Date: 12/10/03

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